

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

H&R BLOCK TAX SERVICES LLC

Plaintiffs

vs.

LUTGARDO ACEVEDO LOPEZ

Defendant

Civil No: 12-1320-CV-W-SOW

MOTION IN OPPOSITION TO SUGGESTIONS OF PLAINTIFF H&R BLOCK TAX
SERVICES LLC IN OPPOSITION TO DEFENDANT'S MOTION TO STAY
PROCEEDINGS

TO THE HONORABLE COURT:

NOW COMES THE DEFENDANT, LUTGARDO ACEVEDO LOPEZ (the "Defendant"), *pro se*, and very respectfully pleads and requests as follows:

1. That on October 1st, 2014 this Honorable Court emitted its judgment is this case (Docket 149).
2. That Defendant filed a Notice of Appeal of said judgment before this court, which was given case #14-3521 in the United States Court of Appeals for the 8th Circuit and requested a stay of post judgment procedures, especially the *duces tecum* subpoena that has been made by Plaintiffs. *See Exhibit A.*
3. Plaintiffs opposed to the stay of such procedures, alleging that "Moreover, a stay of the Court's injunction is particularly unwarranted in light of the ongoing operation by members of Acevedo's family of tax return preparation offices at the same locations at which Acevedo was enjoined from operating directly. Operating under the name Infinity Tax

Advisors, those offices are using the same telephone numbers, are staffed by the same employees, and are soliciting the same clients as Acevedo's previous tax offices at those locations. Indeed, the "duces tecum subpoenas" that Acevedo's motion specifically seeks to have stayed¹ were served not on him, but on his surrogates, whose activities he is attempting to shield. In short, Block seeks the production of documents that it believes will show that Acevedo and the family members through whom he is continuing to operate prohibited tax return preparation offices are flagrantly violating the Court's injunction." Such subpoena, are not under the scope of the judgment rendered by this court, as they are directed to Defendant's sister after this Honorable Court determined that the order was not to be extended to them. Plaintiff's allegations are that she is enjoined with Defendant, which is ridiculous, due to the fact that Plaintiff is and has been incarcerated for several months now, long time before the beginnings of Carolina Acevedo DBA Infinity Tax Advisors began business and all of his communications are strictly under supervision. Such efforts only have the purpose of persecuting Defendant's family and/or ex-employees that are not enjoined with him and were never part of this case or any contract with, as the request personal and privilege information regarding her business practice. Therefore we respectfully request an order of stay of said specific procedures until the judgment is final, which are not procedures related to the collection of the award.

4. Regarding the bond to be submitted. Although in a civil case, the federal district court may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal, Fed. R. Civ. P. 62(d) is generally understood to provide for some discretion not just as to the granting of a stay, but also as to security type and amount. *See Cunningham v. Ariel's Gas & Food, Corp., No. 06-21459-*

Civ, 2007 WL 3274451 at 1 (S.D. Fla. Nov. 5, 2007); *Avirgan v. Hull*, 125 F.R.D. 185, 186 (S.D. Fla. 1989), *aff'd*, 932 F.2d 1572 (11th Cir. 1991). In the case at hand. Defendant is incarcerated and has no ability to change the status quo of the collection of said monies, therefore respectfully request this court to take that into consideration and since no harm may come from it to Plaintiffs, proceed to concede the stay without bond, and in the alternative establish a reasonable guarantee to be put instead taking in consideration the incarcerated situation of Defendant.

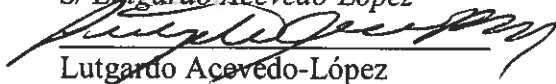
WHEREFORE, Plaintiffs respectfully request that this Honorable Court take notice of the aforementioned and stays all procedures in the District Court, including but not limited to, post judgment procedures such as the *duces tecum* subpoenas been made by Plaintiffs.

WE HEREBY RESPECTFULLY REQUEST that on this same date, the Clerk's Office sends notification of such filing to all counsels of record.

In Guaynabo, Puerto Rico, this 21st day of November, 2014.

Respectfully submitted.

S/ Lutgardo Acevedo-López

A handwritten signature in black ink, appearing to read 'Lutgardo Acevedo-López', written over a horizontal line.

Lutgardo Acevedo-López

Inmate # 05390104

Metropolitan Detention Center

Puerto Rico